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STATE OF ALABAMA
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Emergency Management Communications –
Districts – Contracts – Competitive Bid Law
– Ambulance Service – Counties –
Municipalities – Purchasing – Morgan County

The Morgan County Emergency Management Communications District may enter into an exclusive contract for ambulance service within the county for emergency and nonemergency dispatches.

Incorporated municipalities within Morgan County may, by ordinance, elect to enter a joint agreement with the Morgan County Emergency Management Communications District to competitively bid a contract for exclusive ambulance service within their respective jurisdictions.

Dear Mr. Butler:

This opinion of the Attorney General is issued in response to your request on behalf of the Morgan County Emergency Management Communication District.

QUESTION

(1) Is the authority of the Morgan County Emergency Management Communications District ("District") to enter into an exclusive contract for ambulance services within the county limited to emergency dispatches?

FACTS AND ANALYSIS

According to your request, the District is a communications district created by the Morgan County Commission in 1988 pursuant to authority granted by section 11-98-2 of the Code of Alabama. It is the desire of the District to competitively bid an exclusive contract for ambulance services within the unincorporated area of Morgan County. The District questions whether its authority to do so is limited to emergency calls only, or whether such exclusive contract may also include nonemergency calls such as routine transportation of patients for dialysis and other similar procedures. You further indicate that it is doubtful that any ambulance service would bid on an exclusive dispatch contract for emergency calls only.

The powers of the Board of Commissioners of the District are set forth in section 11-98-4 of the Code. ALA. CODE § 11-98-4 (Supp. 2014). Pursuant to this section, the District has the authority “[t]o enter into contracts or agreements with public or private agencies for dispatch services when such terms, conditions, and charges are mutually agreed upon, unless otherwise provided by local law.” ALA. CODE § 11-98-4(f)(6) (Supp. 2014).

This Office has, on numerous occasions, determined that the authority for determining which ambulance providers receive dispatch calls rests with the board of commissioners of the district. See, e.g., opinion to Honorable Mark D. Ryan, Attorney, Baldwin County Emergency Communications District, dated December 13, 2006, A.G. No. 2007-021. The board of commissioners of the district may also select a single ambulance service to provide all ambulance service within its jurisdiction. Opinion to Honorable Darwin Clark, Chairman, Lawrence County E-911 Communications Board, dated October 20, 2003, A.G. No. 2004-009.

If the ambulance service is “for profit” and the contract is an exclusive contract, the Board must comply with the Competitive Bid Law to avoid the grant of special privileges as prohibited by section 22 of the Alabama Constitution. *Id.* E-911 boards should strive to select ambulance service providers that will provide the best, most efficient service to persons within their districts. *Id.*

With respect to your specific question, this Office has recently determined that section 11-98-4(f)(6) of the Code allows an E-911 district to contract for both emergency and nonemergency services. Opinion to Honorable Jay Murrill, Attorney, Jefferson County 9-1-1 Emergency Communications District, dated January 14, 2014, A.G. No. 2014-039.

CONCLUSION

The Morgan County Emergency Management Communications District may enter into an exclusive contract for ambulance service within the county for emergency and nonemergency dispatches.

QUESTIONS

(2) May the dispatch contract include the areas within one or more incorporated municipalities in Morgan County that wish to be included in the contract?

(3) If so, what must the incorporated municipality do to be included in the dispatch contract?

FACTS AND ANALYSIS

As you correctly state in your request, a contract for a for-profit ambulance service to provide exclusive service within the district must be competitively bid. Section 41-16-50(b) of the Code, relating to competitive bidding, states as follows:

The governing bodies of two or more contracting agencies, as enumerated in subsection (a), or the governing bodies of two or more counties, or the governing bodies of two or more city or county boards of education, may provide, by joint agreement, for the purchase of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property for use by their respective agencies. The agreement shall be entered into by similar ordinances, in the case of municipalities, or resolutions, in the case of other contracting agencies, adopted by each of the participating governing bodies, which shall set forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of the agreement. Each contracting agency's share of expenditures for purchases under any agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the contracting agency. The contracting

agencies entering into a joint agreement, as herein permitted, may designate a joint purchasing or bidding agent, and the agent shall comply with this article. Purchases, contracts, or agreements made pursuant to a joint purchasing or bidding agreement shall be subject to all terms and conditions of this article.

ALA. CODE § 41-16-50(b) (2013) (emphasis added).

In an opinion to the Honorable K. Doyle Allen, this Office determined that this section of the Code permits governing bodies of two or more agencies to contract jointly for purchases made pursuant to competitive bidding. Opinion to Honorable K. Doyle Allen, Chairman, Randolph County Commission, dated November 2, 2010, A.G. No. 2011-007. Additionally, this Office has also determined that a municipality may contract with an E-911 district for the providing of ambulance service. Opinion to Honorable Roy Sanderson, Mayor, City of Rainsville, dated June 19, 1997, A.G. No. 97-00210. Finally, pursuant to section 41-16-50 of the Code, an ordinance is required for a municipality to participate in a joint agreement to competitively bid for services. ALA. CODE § 41-16-50(b) (2013).

CONCLUSION

Incorporated municipalities within Morgan County may, by ordinance, elect to enter a joint agreement with the Morgan County Emergency Management Communications District to competitively bid a contract for exclusive ambulance service within their respective jurisdictions.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ben Baxley of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division